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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,204	08/26/2005	Uwe Zoller	SMB-PT155 (PC 04 019 B US	7991
3624	7590	09/28/2006	EXAMINER BOECKMANN, JASON J	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			ART UNIT 3752	
PAPER NUMBER				

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/547,204

Applicant(s)

ZOLLER, UWE

Examiner

Jason J. Boeckmann

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3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/26/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the disclosure as well as the claims what the phrase "substantially form fitting" means in line 3 of claim 2. Is the applicant referring to a sloped surface having the same slope as the sieve or is a step in the same direction as the sloped surface of the sieve "substantially form fitting"?

Regarding claim 3 and 7, it is unclear if the control gap of claim 3 is the same control gap of claim 7, or is there two different control gaps? The control gap of claim 3 is connected to the throughflow opening in the throughflow regulator whereas the control gap of claim 7 is formed between the throttle body and the rising sloped surface of the throughflow regulator and is adjustable by the throttle body.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 7 (claims 2, 3 and 7, as well as understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Muchenberger et al (5,769,326).

Muchenberger et al shows a unit for insertion into a discharge fitting comprising: a substantially cone-shaped upstream sieve (5) with a throughflow regulator (4) and a jet regulator (3) positioned downstream in a flow direction, wherein the throughflow regulator is arranged generally inside an interior space (fig 1) of the insert limited at the top by the upstream sieve. The throughflow regulator is provided with a cross-sectional profile that is substantially form fitting a cross-sectional profile of the upstream sieve (fig 1).

Regarding claims 3 and 7, the throughflow regulator has an exterior edge with a radially inward rising sloping surface (the top of the throughflow regulator where the surface steps up to substantially conform to the cross-section of the sieve (5) has a 90 degree inwardly rising sloped surface) which leads to a throughflow opening connected to a control gap (see examiners marked up figure 6 below). The control gap is also provided with a central core area which is surrounded by a throttle body and the rising sloped surface having a throughflow cross-section being adjustable by the throttle body.

Fig.6



Wildfang shows a unit for insertion into a discharge fitting comprising: a substantially cone-shaped upstream sieve (6) with a throughflow regulator (10) and a jet regulator (8) positioned downstream in a flow direction, wherein the throughflow regulator is arranged generally inside an interior space (5) of the insert limited at the top by the upstream sieve. The throughflow regulator is provided with a cross-sectional

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profile that is substantially form fitting a cross-sectional profile of the upstream sieve (fig 1). The throughflow regulator has an exterior edge with a radially inward rising sloping surface (13) which leads to a throughflow opening (9) connected to a control gap (a).

Regarding claim 7, the throughflow regulator is provided with a central core area (19, 23) which is surrounded by a circular throttle body (11), and between the throttle body and the rising sloped surface a control gap is formed (a) having a throughflow cross-section being adjustable by the throttle body.

Allowable Subject Matter

Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moen (4,000,857) shows a flow control aerator including a throttle body that adjusts a control gap. Griffin et al (US 2002/0084353) shows a sloped sieve and a loped throughflow regulator.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJB JJB 9/18/06



David A. Scherbel
Supervisory Patent Examiner
Group 3700